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In item 5 on page 2 of the above-identified Office action, claims 1-22 have been rejected as being anticipated by Murch (US 3,934,066) under 35 U.S.C. § 102.

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome Murch.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claim 1 calls for, inter alia:

a core layer including fibrous material and having at least one outer surface, *said fibrous material being provided with a fire retardant additive*; and

a *covering layer including a foamable material* covering said core layer at said at least one outer surface, said foamable material being at least difficult to ignite and foaming at a given temperature to insulate said core layer from high temperature and oxygen.

In col. 2, lines 43-48, Murch states "[a]dhered to the intumescent layer 11 is a flexible protective layer 12 which is capable of yielding or deforming with or without rupture under conditions of fire or heat so that the intumescent

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composition can freely expand and swell to the desired necessary thickness."

The Examiner has not indicated in the Office action which features of *Murch* correspond to the recited claim features "core layer", "covering layer", and "fire retardant additive".

A) Assuming that the Examiner equated the "core layer" of the present invention with the "intumescent layer 11" of *Murch*, and the "covering layer" of the present invention with the "protective layer 12" of *Murch*.

Murch discloses that the prior art intumescent **coating** is useful fire-retardant coating (col. 1, lines 13-15 and 31-34). In col. 5, line 7, through col. 7, line 28, *Murch* discusses in great detail the composition, consistency, and manufacture of the "intumescent composition" used in the "intumescent layer 11". Nowhere does *Murch* disclose (or suggest) providing the "intumescent composition" (or the "intumescent layer 11") with a fire retardant additive, or discuss any existing fire retardant properties of the intumescent composition. In fact, *Murch* does not disclose or mention the term "fire retardant additive". Consequently, it is highly questionable if the "intumescent composition" can be equated with the "fire retardant additive" of the present invention.

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Furthermore, there is no disclosure (or suggestion) in Murch that the "flexible protective layer" is foamable and foams at a given temperature to insulate the core.

B) Assuming that the Examiner equated the "core layer" of the present invention with the "protective layer 12" of Murch, and the "covering layer" of the present invention with the "intumescent layer 11" of Murch.

In col. 7, line 55, through col. 8, line 62, Murch discusses in great detail the composition, consistency, and manufacture of the "protective layer 12". There is no disclosure in Murch that the "protective layer 12" contains a fire retardant additive.

*Col 8 L. 7
fire
retardant*

There is no disclosure in Murch that the "intumescent layer 11" foams at a given temperature to insulate the "protective layer 12" from high temperature and oxygen, as recited in claim 1.

As discussed in MPEP § 2112, a limitation recited in a claim that is not expressly or implicitly disclosed in a prior art reference is inherently disclosed therein if, and only if, the "missing" limitation is necessarily present in the prior art.

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The principles of inherency require that the inherency be absolute, and not probabilistic. As far as Applicant was able to ascertain, Murch does not inherently disclose either a core layer or a cover layer with a fire retardant additive, or a foamable covering layer foaming at a given temperature to insulate a core layer from high temperature and oxygen, as recited in the claims.

Therefore, the invention as recited in claim 1 of the instant application is believed not to be anticipated by Murch.

The inventive concept of the invention of the instant application is to produce an insulation material using a foamable cover layer in combination with a core layer provided with a fire retardant additive. When subjected to heat the foamable cover layer foams, thereby insulating the core layer from high temperatures and oxygen. Since the core layer is completely insulated from the exterior by the foaming, the inflammation temperature is not reached and no oxygen, needed for combustion, can reach the core layer. In this way, an insulation material is produced that provides good insulation properties with its exterior and interior fiber layers and that is difficult or impossible to ignite and virtually eliminates the possibility of producing toxic gases.

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It is accordingly believed to be clear that Murch does not show the features of claim 1. Claim 1 is, therefore, believed to be patentable over the art and because claims 2-22 are ultimately dependent on claim 1, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 1-22 are solicited.

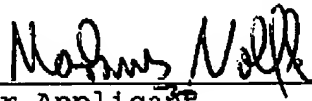
In the event the Examiner should still find any of the claims to be unpatentable, the Examiner is respectfully requested to telephone Counsel so that, if possible, patentable language can be worked out. In the alternative, the entry of the amendment is requested as it is believed to place the application in better condition for appeal, without requiring extension of the field of search.

Petition for extension is herewith made. The extension fee for response within a period of one month in the amount of \$ 110.00 in accordance with Section 1.17 is enclosed herewith.

Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

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Respectfully submitted,



For Applicant

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MN:cgm

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